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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,622	03/23/2004	Sasan Danechi	Walstijn US-3	4037
7590 09/13/2005			EXAMINER	
Dahl & Osterloth, LLP Suite 3405 555 17th Street Denver, CO 80202-3937			JOHNSON, JERROLD D	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/807,622	Applicant(s) DANECHI, SASAN	
	Examiner Jerrold Johnson	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Following further review, claims previously indicated as allowable contingent on an Examiner's amendment has been rejected in this action. The Examiner regrets the erroneous indication of allowable subject matter.

Claim Objections

Claim 14 "rotation al" should read "rotational".

Claim 17, "closing means" should read "covering means".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segal US 2,112,866 in view of Thorn US 5,983,026.

Re claim 1, Segal discloses a container inherently suitable for swabs (see page 2, col. 2 lines 38-43) but does not disclose a plurality of swabs therein. Specifically, Segal discloses a housing 11, a hinged lid 12, a movable support 32 as claimed, and a

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mechanism 30 rigidly connected to the lid and disposed to engage in movable contact with the support member, whereby the mechanism creates a camming effect as claimed.

Thorn teaches how the support 30 of Segal could easily support swabs.

Accordingly, as Segal has disclosed the intention of containing other grooming products, and Thorn teaches how grooming products, in particular swabs, are housed in a chamber such as Segal, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the container of Segal to have included swabs so as to provide a protective container for them.

Re claim 4, the lever 30 creates a levering effect as claimed.

Re claim 5, the container is adapted to contain a plurality of double headed cotton swabs. Note that the recitation "adapted to contain a plurality of double headed cotton swabs" does not connote a particular structure, and that the support 32 is inherently capable of this function.

Re claim 6, the lever 30 creates a camming or levering effect.

Claims 1-4 and 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over de la Rocha US 5,330,056 in view of Stoll US 1,163,183.

Re claim 1, de la Rocha discloses a container for swabs comprising a housing 12, a hinged lid 22, and a movable internal support member 30.

de la Rocha does not disclose a mechanism as set forth. Instead, de la Rocha discloses a lifting element 70 which must be operated manually.

Stoll discloses a mechanism, elements 23,24, rigidly connected to the lid and disposed to engage in movable contact with the support member. The mechanism links the rotational motion of said lid to at least partially cause movement of a support member 20,21,25,26 such that the support member is disposed in the first position when the lid is in the closed position and the support member is disposed in the second position when the lid is in the open position. The mechanism creates a camming effect in its movable contact with the support member to cammingly move the support member.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the container of de la Rocha with the mechanism of Stoll, so as to provide automatic lifting of the internal support member for easy swab removal.

Re claim 2, the movement is translational in both references.

Re claim 3, the mechanism is a lever 23 as claimed.

Re claim 4, the lever creates a levering effect as claimed.

Re claim 6, see claim 1 and 4.

Re claim 7, extension 21 extends toward the hinge 8, and includes a recess 22, within which the free end 24 of the lever 23 extends.

Re claim 8, the support member of both references are bottom members, and in particular the support member of de la Rocha supports swabs in an upright position.

Re claim 9, elements 20 and 21 of the bottom member extend toward the hinge 8.

Re claim 10, note lever 23, and recess 22.

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Re claim 11, note Fig. 2.

Re claim 12, the lever faces the container on all of its sides. The contour of the lever ensures a smooth translation of movement.

Re claim 13, note the translational movement in both references.

Re claim 14, Stoll discloses this contact movement.

Re claim 15, the lever 23 creates a camming or levering effect.

Re claim 16, the swabs 100 have an absorbent end.

Re claim 17, note the rejection of claim 1, and the translational movement.

Re claims 18-20, the method for dispensing is set forth in the combination as set forth above.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over de la Rocha US 5,330,056 in view of Stoll US 1,163,183 and further in view of Avery US 102,471.

de la Rocha US 5,330,056 in view of Stoll US 1,163,183 does not disclose that the container is adapted to contain a plurality of double headed swabs, as the support of de la Rocha is only adapted to contain single headed swabs.

Avery discloses how an open topped support could be used which would adapt the container for a plurality of double headed swabs.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the support of de la Rocha with the teaching of an open topped support of Avery so as to accommodate the well known double headed swabs.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

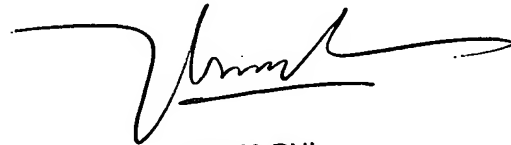
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ 



LUAN K. BUI
PRIMARY EXAMINER